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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	CASE NO.
)	
Plaintiff,)	VERIFIED COMPLAINT FOR CIVIL
)	FORFEITURE <i>IN REM</i>
v.)	
)	
TWO CONDOMINIUMS LOCATED AT 465)	
OCEAN DRIVE, UNITS 315 AND 316,)	
MIAMI BEACH, FLORIDA 33139)	
)	
Defendants.)	

The United States of America, by its attorneys, Stephanie M. Hinds, Acting United States Attorney for the Northern District of California, and Chris Kaltsas, Assistant United States Attorney, brings this complaint and alleges as follows:

NATURE OF THE ACTION

1. This is a judicial forfeiture action *in rem*, as authorized by Title 18, United States Code, Sections 981 and 983, involving the seizure and forfeiture to the use and benefit of the United States of America the following property:

Two condominiums located at 465 Ocean Drive, Units 315 and 316, Miami Beach, Florida 33139 (associated with APNs 02-42-03-097-0280 and 02-42-03-097-0290, respectively). (hereinafter, “Defendant Properties”) as property, real or personal, involved in a transaction or attempted transaction in violation of Title 18, United States Code, Section 1956, and as property which constitutes or is derived from proceeds traceable to violations of (1) health care fraud, in violation of Title 18, United States Code, Section 1347; (2) securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff; Title 17, Code of Federal Regulations, Section 240.10b-5; and (3) wire fraud, in violation of Title 18, United States Code, Section 1343, all by virtue of Title 18, United States Code, Sections 1956(c)(7) and 1961(1)(D).

2. This Court has jurisdiction under Title 18, United States Code, Section 981, and Title 28, United States Code, Sections 1345 and 1355, as the Defendant Properties were involved in a transaction or attempted transaction in violation of Title 18, United States Code, Section 1956; and the Defendant Properties constitute or are derived from proceeds obtained, directly or indirectly, from health care fraud, in violation of Title 18, United States Code, Section 1347, by virtue of Title 18, United States Code, Section 1956(c)(7)(F); (2) securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff; Title 17, Code of Federal Regulations, Section 240.10b-5, by virtue of Title 18, United States Code, Sections 1956(c)(7)(F) and 1961(1)(D); and/or (3) wire fraud, by virtue of by virtue of Title 18, United States Code, Sections 1956(c)(7)(F) and 1961(1)(A).

3. This action is timely filed in accordance with Title 18, United States Code, Section 983(a)(3)(A).

4. Venue is proper because acts giving rise to this forfeiture action occurred in the Northern District of California. See Title 28, United States Code, Sections 1355(b) and 1395(a).

5. Intra-district venue is proper in the San Francisco division within the Northern District of California.

PARTIES

6. Plaintiff is the United States of America.

7. The Defendant Properties are two condominiums located at 465 Ocean Drive, Units 315 and 316, Miami Beach, Florida 33139 (associated with APNs 02-42-03-097-0280 and 02-42-03-097-0290, respectively).

FACTS

8. uBiome, Inc. (“uBiome”), was a Delaware corporation formed in or about October 2012. Beginning no later than in or about 2013, uBiome maintained and purported to maintain its principal place of business in the City and County of San Francisco in the Northern District of California.

9. ZACHARY SCHULZ APTE, who was also known as Zachary Apte and Zac Apte, was a co-founder, corporate officer, and director of uBiome.

10. JESSICA SUNSHINE RICHMAN, who was also known as Jessica Richman, was a co-founder, corporate officer, and director of uBiome.

11. On March 18, 2021, a Grand Jury in the Northern District of California indicted APTE and RICHMAN for fraudulent activity conducted through uBiome, specifically violations of Title 18, United States Code, Section 1349, conspiracy to commit health care fraud; Title 18, United States Code, Section 1347, healthcare fraud; Title 18, United States Code, Section 1028A(a)(1), aggravated identity theft; Title 18, United States Code, Section 1343, wire fraud; Title 15, United States Code, Sections 78j(b), 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5, fraud in connection with the purchase and sale of securities; Title 18, United States Code, Section 1957, money laundering; Title 18, United States Code, Section 2, aiding and abetting; and are subject to criminal forfeiture allegations.

Conspiracy and Scheme and Artifice to Defraud Health Care Benefit Programs

12. No later than in or about November 2015, and continuing until in or about April 2019, APTE and RICHMAN knowingly and willfully, and with the intent to defraud, executed and attempted to execute a scheme and artifice to defraud health insurance benefit programs as to a material matter and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, and by concealment of material facts, money and property owned by, and under the custody and control of, those health insurance benefit programs, all in connection with the delivery of, and payment for, health care benefits, items, and services. Among other purposes, APTE and RICHMAN engaged in the scheme and artifice for the purpose of inducing and attempting to induce health insurance providers to

1 pay money to uBiome, all in order to obtain funds for the operations of uBiome, to make it appear to
2 investors that health care providers' orders for uBiome's clinical tests were routinely reimbursed by
3 health insurance providers, and to project the appearance to investors that such reimbursable orders were
4 increasing on a monthly basis.

5 13. As part of the conspiracy to defraud health care benefit programs, APTE and RICHMAN
6 developed, implemented, and oversaw a series of fraudulent practices designed to deceive approving
7 health care providers and health care benefit programs with respect to tests that were not validated and
8 not medically necessary, and then falsified documents and lied about and concealed material facts when
9 insurance providers asked questions to which truthful answers would reveal the fraudulent nature of
10 uBiome's billing model. These practices included (1) fraudulently submitting reimbursement claims for
11 re-tests or re-sequencings of archived samples (referred to internally as "upgrades"); (2) utilizing a
12 captive network of doctors (the ECCN) and other providers who were incentivized to approve tests, but
13 who were intentionally given partial and misleading information about the test requests they were
14 reviewing; (3) fraudulently submitting reimbursement claims with respect to tests that had not been fully
15 validated under CLIA standards and/or for which patient test results had not yet been released;
16 (4) manipulating dates of service to conceal uBiome's actual testing and marketing practices from
17 insurance providers, and to try to maximize billings; (5) fraudulently not charging patients for patient
18 responsibility required by insurers, and instead, in some cases, incentivizing them with gift cards, and
19 then making misleading statements about or concealing those practices from insurance providers; and
20 (6) falsifying documents, using the identity of doctors and other health care providers without their
21 knowledge or authorization through their NPI numbers and other data, and lying to insurance providers
22 in response to requests for information, overpayment notifications, requests for recoupment of billings,
23 denials of reimbursement requests, and/or audits investigating uBiome's billing practices.

24 Conspiracy and Scheme and Artifice to Defraud Investors and Potential Investors

25 14. By no later than in or about 2015, and continuing until in or about April 2019, in the
26 Northern District of California and elsewhere, APTE and RICHMAN knowingly, and with the intent to
27 defraud, devised and intended to devise a scheme and artifice to defraud investors and potential
28 investors (referred to as "investors") as to material matters and to obtain money and property from

1 investors by means of materially false and fraudulent pretenses, representations, and promises, and by
2 concealment of material facts. Among other purposes, APTE and RICHMAN engaged in the scheme
3 and artifice in order to induce and attempt to induce investors to invest funds in equity and debt issued
4 by uBiome, which funds could be used both to pay for the operations of uBiome and to personally
5 enrich APTE and RICHMAN.

6 15. As part of the conspiracy and scheme and artifice to defraud investors, APTE and
7 RICHMAN developed, implemented, and oversaw an effort to deceive and mislead investors about
8 various aspects of uBiome's business including, but not limited to, the success of uBiome's business
9 model in terms of revenues and reimbursement rates; the threats to future revenues represented by
10 uBiome's failure to collect patient responsibility, marketing of upgrades, and reliance on the ECCN to
11 generate orders; and the lack of clinical utility and acceptance in the medical community of uBiome's
12 tests. As part of this effort, APTE and RICHMAN made and caused to be made various material
13 misrepresentations and false and misleading statements and omissions to investors from in or about late
14 2015 through in or about early 2019.

15 16. By virtue of these misrepresentations, misleading statements, and omissions, APTE and
16 RICHMAN induced numerous investors to invest tens millions of dollars in uBiome equity and debt, as
17 well as to purchase over \$12 million of uBiome stock from APTE and RICHMAN themselves.

18 Proceeds of Fraudulent Activities

19 17. uBiome's Series B investors transferred approximately \$15 million into uBiome's
20 business accounts in 2016 in exchange for uBiome stock and Founders Shares. Near the end of 2016,
21 APTE and RICHMAN began funneling funds from the uBiome account to their personal accounts,
22 including approximately \$1.2 million into accounts controlled by APTE, and approximately \$600,000
23 into accounts controlled by RICHMAN. These include a \$595,000 transfer to Larrain Vial S.A.
24 Correcora De Bolsa, a Chilean bank, for the benefit of APTE.

25 18. Beginning in 2017, APTE and RICHMAN obtained financing for uBiome through the
26 issuance of convertible notes to investors, again through misrepresenting vital aspects of uBiome's
27 business. Specifically, three investment funds transferred approximately \$9 million to the uBiome
28 account in exchange for convertible notes in July and August 2017. Moreover, beginning in 2017,

1 uBiome began accruing profits from health care payers through, as stated above, numerous means of
2 fraudulent activity. uBiome received a total of \$3,335,117.03 from health care benefit programs in the
3 course of 761 transactions in 2017.

4 19. uBiome obtained further financing in 2018 through the issuance of promissory notes and
5 additional investment. Specifically, uBiome obtained approximately \$1.8 million through the issuance
6 of promissory notes to four separate funds in early 2018. Shortly thereafter, in and around August 2018,
7 uBiome began in its Series C fundraising round, during which APTE and RICHMAN collectively sold
8 approximately \$10 million worth of their personal Founders Shares to various Series C investors. Other
9 significant investors in the Series C round purchased over \$30 million of uBiome stock. Throughout
10 2018, uBiome accumulated \$26,152,976.17 in health care payments through 7751 transactions.

11 20. In 2017, APTE and RICHMAN began the process of forming the first of many legal
12 trusts through which they would buy and sell properties. The first of these, the Juniper Revocable Trust,
13 was formed on August 31, 2017. The trust was initially capitalized with \$4,000 in September 2017.
14 Shortly thereafter, on September 8, 2017, APTE and RICHMAN applied for a mortgage on a property
15 located at 1025 NE 5th Avenue, Camas, Washington 98607 (“the Camas property”). Subsequently,
16 APTE and RICHMAN both transferred \$50,149.36 (a total of \$100,298.72) from their personal financial
17 accounts to the Juniper Revocable Trust’s bank account on October 12, 2017. Notes on the transfers
18 indicated that the transfers were for a down payment for the Camas property.

19 21. APTE and RICHMAN then conducted several real estate transactions in late 2019 and
20 early 2020. On September 4, 2019, RICHMAN and APTE transferred funds from their personal bank
21 and investment accounts totaling \$373,969.24 to Wells Fargo Bank (both transferring \$186,984.62).
22 Both transfers indicated that the purpose of the respective transfers was to pay the balance of the
23 mortgage on the Camas property. The transfers from the both accounts are traceable to the proceeds of
24 the specified unlawful activities.

25 22. APTE and RICHMAN sold the Camas property on January 28, 2020. The proceeds from
26 the sale were \$555,055.91, which were wired from the Chicago Title Company to the trust account of
27 ATTORNEY 1. The funds were held in trust until the purchase of two condominiums located at 465
28 Ocean Drive, Units 315 and 316, Miami Beach, Florida 33139 (*i.e.*, the Defendant Properties). These

1 properties were both purchased on February 21, 2020; Unit 315 sold for \$510,000, while Unit 316 sold
2 for \$500,000. The purchase of the Defendant Properties was conducted entirely in cash, most of which
3 was transferred from the trust account of ATTORNEY 1. The remaining funds were transferred to
4 escrow companies and others over the course of thirteen transfers from eight separate bank and financial
5 accounts belonging to APTE and RICHMAN.

6 23. The funds used to purchase these properties were derived, in substantial part, from funds
7 traceable to the specified unlawful activities above. Moreover, these properties are involved in money
8 laundering. The means and methods of paying for these homes, including a series of complicated
9 financial transactions; the use of various intermediary accounts, trusts, and companies; and the use of an
10 intermediary individual (ATTORNEY 1), all indicate that the purpose of the transfer was to conceal the
11 nature, source, and location of the proceeds of specified unlawful activities. The Defendant Properties
12 are accordingly subject to forfeiture as they are properties involved in a transaction or attempted
13 transaction in violation of Title 18, United States Code, Section 1956 (money laundering), all pursuant
14 to Title 18, United States Code, Section 981(a)(1)(A).

15 24. Finally, APTE and RICHMAN have also engaged in several international transfers of
16 funds indicative of money laundering activity. Neither APTE nor RICHMAN have been present in the
17 United States since mid-2020. They have nevertheless transferred hundreds of thousands of dollars
18 among their various bank accounts to their brokerage accounts at Fidelity Investments beginning in early
19 2020. APTE and RICHMAN subsequently transferred all of their funds in certain brokerage accounts to
20 their other personal bank accounts in March 2020. In August of 2020, APTE and RICHMAN
21 transferred over \$750,000 to banks located in London, UK, and Germany, using their primary bank and
22 financial accounts. Subsequently, on January 4, 2021, APTE and RICHMAN each sent \$50,000 to
23 ATTORNEY 1's trust account, noting that the money was to be spent for a construction escrow on the
24 Defendant Properties. At least one of these accounts was used to funnel money collected from several
25 accounts across various financial institutions prior to transferring the money internationally to Germany.

26 25. Accordingly, as the transaction for the Defendant Properties were part of a series of real
27 estate transactions that appear to be designed to conceal the illicit nature of funds, the Defendant
28 Properties are involved in money laundering and are accordingly forfeitable to the United States.

Moreover, as the funds transferred to ATTORNEY 1 for the purpose of improving the Defendant Properties were the proceeds of securities fraud and health care fraud, and because \$100,000 of those illicitly obtained funds were spent on the Defendant Properties, and because those funds were in an account used to conceal those proceeds, the Defendant Properties are involved in money laundering.

CLAIM FOR RELIEF

26. The United States incorporates by reference the allegations in paragraphs 1 through 25 as though fully set forth herein.

27. Title 18, United States Code, Section 981(a)(1)(A) subjects any property, real or personal, involved in a transaction in violation of Title 18, United States Code, Section 1956 (money laundering) to forfeiture to the United States.

28. Title 18, United States Code, Section 981(a)(1)(C) subjects any property, real or personal, which constitutes or is derived from proceeds traceable to proceeds of any specified unlawful activity to forfeiture to the United States.

29. Title 18, United States Code, Section 1956(a)(1)(B)(i) prohibits a person from conducting or attempting to conduct a financial transaction when knowing that the property involved in said transaction represents the proceeds of some form of unlawful activity, and when knowing that said transaction is designed in whole or in part to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity.

30. Title 18, United States Code, Section 1957 prohibits a person from engaging or attempting to engage in a monetary transaction in criminally derived property of a value greater than \$10,000 and is derived from specified unlawful activity.

31. Title 18, United States Code, Section 1347 prohibits a person from executing, or attempting to execute, a scheme or artifice to defraud any health care benefit program, or to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property under the control of a health care benefit program in connection with the delivery of or payment for health care benefits, services, or items.

1 32. Title 15, United States Code, Sections 78j(b) and 78ff; and Title 17, Code of Federal
2 Regulations, Section 240.10b-5 prohibits a person from using or employing any manipulative or
3 deceptive device or contrivance in connection with the sale of securities.

4 33. Title 18, United States Code, Section 1343 prohibits a person who, having devised or
5 intending to devise a scheme or artifice to defraud, or for obtaining money or property by means of false
6 or fraudulent pretenses, representations, or promises, from transmitting, or causing the transmission of,
7 any writing, sign, signal, picture, or sound by means of wire, radio, or television communication in
8 interstate or foreign commerce for the purpose of executing said scheme or artifice.

9 34. A violation of Title 18, United States Code, Section 1347 is a “specified unlawful
10 activity” for purposes of Title 18, United States Code, Section 981, by virtue of its reference to Title 18,
11 United States Code, Section 1956(c)(7)(F).

12 35. A violation of Title 15, United States Code, Sections 78j(b) and 78ff; and Title 17, Code
13 of Federal Regulations is a “specified unlawful activity” for purposes of Title 18, United States Code,
14 Section 981, by virtue of its reference to Title 18, United States Code, Section 1956(c)(7)(A), which
15 incorporates Title 18, United States Code, Section 1961(1)(D) (listing “fraud in the sale of securities” as
16 a specified unlawful activity).

17 36. A violation of Title 18, United States Code, Section 1343 is a “specified unlawful
18 activity” for purposes of Title 18, United States Code, Section 981, by virtue of its reference to Title 18,
19 United States Code, Section 1956(c)(7)(A), which incorporates Title 18, United States Code, Section
20 1961(1)(A).

21 37. In light of the foregoing, and considering the totality of the circumstances, it is more
22 likely than not that the Defendant Properties represent property involved in a transaction or attempted
23 transaction in violation of Title 18, United States Code, Sections 1956 and 1957. Moreover, in light of
24 the foregoing and considering the totality of the circumstances, it is more likely than not that the
25 Defendant Properties are property constituting or derived from proceeds traceable to the commission of
26 an offense defined as a “specified unlawful activity.” The Defendant Properties listed herein are thus
27 subject to forfeiture under Title 18, United States Code, Sections 981(a)(1)(A) and 981(a)(1)(C),
28 respectively.

WHEREFORE, plaintiff the United States of America requests that due process issue to enforce the forfeiture of the above listed Defendant Properties; that notice be given to all interested parties to appear and show cause why forfeiture should not be decreed; that judgment of forfeiture be entered; that the Court enter a judgment forfeiting the Defendant Properties; and that the United States of America be awarded such other relief as may be proper and just.

DATED: May 26, 2021

Respectfully submitted,

STEPHANIE M. HINDS
Acting United States Attorney

/s/
CHRIS KALTSAS
Assistant United States Attorney

VERIFICATION

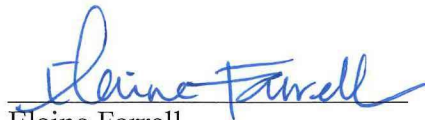
I, Elaine Farrell, state as follows:

1. I am a special agent with the Department of Defense Office of Inspector General, Defense Criminal Investigative Service. I am an agent assigned to this case. As such, I am familiar with the facts and the investigation leading to the filing of this Complaint for Forfeiture.

2. I have read the Complaint and believe the allegations contained therein to be true.

* * * * *

I declare under penalty of perjury that the foregoing is true and correct. Executed this 25 day of May, 2021, in Oakland, California.



Elaine Farrell
Special Agent
Defense Criminal Investigative Service